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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,229	10/30/2003	Vladimir Gartstein	9065M	9146

27752 7590 04/20/2005

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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CINCINNATI, OH 45224

EXAMINER

CHIESA, RICHARD L

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

25 MW

Office Action Summary	Application No. 10/697,229	Applicant(s) GARTSTEIN ET AL.	
	Examiner Richard L. Chiesa	Art Unit 1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Drawings

1. The drawings filed on October 30, 2003 are accepted by the examiner.

Claim Rejections - 35 USC § 102/103

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicants are advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-3, 13, 15-18, 20, and 22-26 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over any one of the Willey et al U.S. patents (Nos. 6,607,579; 6,607,586; 6,656,253). Each one of the Willey et al patents (note Figures 1-3) discloses a particle collection apparatus and process with a chamber 12, liquid spray nozzle 34, collecting surface 38, and monitoring device 76 as claimed (35 USC 102e). It would appear that the Willey et al patents may not explicitly state the presence of an analysis station or that the concentration of collected particles increases over time. However, each one of the Willey et al patents (note column 8 of the first two patents and column 18 of the last patent) disclose that the monitor 76 will indicate when the fluid for the liquid spray device needs replacing. Monitor 76 must evidently analyze the fluid solution to determine if it contains enough collected particles to require replacement. Consequently, it is inherent or at least would have been readily obvious to one of ordinary skill in the art (35 USC 103a) that the monitor 76 of each one of the Willey et al patents is an analysis station which determines if the particle

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concentration of the fluid for the liquid spray device has increased over time to a point that the fluid solution needs replacement.

6. Claims 4-12, 14, 19, 21, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 1, 13, 20, and 23 in paragraph 5 above, and further in view of Kraemer et al. Each one of the Willey et al patents, as described above in paragraph 5 discloses an electrostatic precipitator particle collection apparatus and process substantially as claimed with the apparent exception of fluorescent markers and a spectrophotometric device. In any case, Kraemer et al teach the well-known use of such techniques in an electrostatic precipitation apparatus and process for the purpose of ensuring proper monitoring and analysis (note pages 2431-2434) and for these same reasons it would have been obvious to one of ordinary skill in the art to employ these expedients in any one of the Willey et al patent devices and processes.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. These references have been cited as art of interest to show other particle collection and/or analysis systems .

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard L. Chiesa whose telephone number is (571) 272-1154.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane S. Smith, can be reached at (571) 272-1166.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1700 receptionist whose telephone number is (571) 272-0987.

Facsimile correspondence must be transmitted through (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard L. Chiesa
April 16, 2005

Richard L. Chiesa

**RICHARD L. CHIESA
PRIMARY EXAMINER
ART UNIT 1724**

April 16, 2005